D.B. CIVIL WRIT PETITION NO.3150/2006

K.R. Mathur
Vs.
Kendriya Vidhyalaya Sangthan & Ors.

DATE OF ORDER :: 13-02-2007

HON'BLE THE CHIEF JUSTICE SHRI S.N.JHA
HON'BLE SHRI JUSTICE MOHAMMAD RAFIQ

Shri R.N. Mathur, for the petitioner.

This writ petition has been filed challenging the decision of the Central Administrative Tribunal, Jaipur Bench dated 9.8.2005 in T.A.no.06/2001. The petitioner had made a number of grievance which included wrong fixation of pay in terms of FR 22-C and non-grant of selection grade.

As regards pay fixation, the Tribunal held that the pay had been correctly fixed at Rs.2540/- in the scale of Rs.1640-2900, and having heard counsel for the petitioner, we find no error in the finding of the Tribunal.

As regards the claim of pay fixation in terms of FR 22-C, the Tribunal directed the authorities to re-examine the claim and take a decision on the point. It transpired in course of hearing that decision in the light of direction of the Tribunal has been taken by the concerned authorities which is adverse to the petitioner.

We are of the view that the said decision provides a fresh cause of action to the petitioner and in view of the bar contained in Section 14 of the Administrative Tribunals Act, it cannot be challenged directly in this Court; the only option available to him is to file application before the Tribunal. Counsel submitted that he will advise the petitioner to do so.

As regards grant of selection grade, the Tribunal took the view that though teachers after 12 years of service in the senior scale are entitled to selection grade, the grant is restricted 20% of the number of posts in the senior scale in the respective cadre. We find this conclusion to be well-founded. However, it was submitted before us that many teachers upto Serial no.80 (being 20% of the total number of posts in the Senior scale of TGT) had been granted regular promotion and therefore their names could not be included in the list of TGT teachers for the purpose of grant of selection grade. In other words, the list of teachers on the basis of 20% of the total number of posts was not correctly prepared. The Tribunal however did not go into this issue. A review application was filed which was rejected on technical ground.

We are of the view that in the Original Application which the petitioner may file challenging the decision in the matter of pay fixation in terms of FR

22-C, as aforesaid, he may agitate his claim for grant of selection grade on the limited ground that the list of teachers was not correctly prepared and those who had been granted regular promotion were not included in the list.

With the above observation, the writ petition is disposed of.

[MOHAMMAD RAFIQ],J. **[S.N.JHA],CJ.**

Praveen